

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

NICHOLAS TREY DANIEL,

Plaintiff,

v.

Case No. 3:23-cv-00712

**TFC J. J. DEAN, III,
West Virginia State Police Trooper,**

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is Plaintiff's Motion for Summary Judgment. (ECF No. 47). This Court's Local Rules of Civil Procedure act in conjunction with the Federal Rules of Civil Procedure. Local Rule of Civil Procedure 7.1 governs motion practice and states, in relevant part, that motions are to be filed "timely, but not prematurely." L. R. Civ. P. 7.1 (a)(1). In addition, the Rule requires that motions for summary judgment be accompanied by a memorandum of law not more than 20 pages in length. L. R. Civ. P. 7.1 (a)(1).

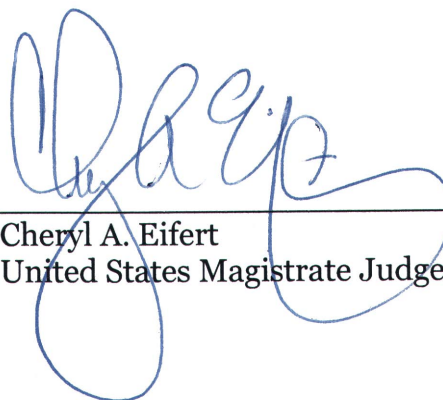
Plaintiff's Motion for Summary Judgment is premature given that discovery has just begun in this case. Five days ago, Defendant requested leave to depose Plaintiff, and Plaintiff served discovery requests on June 13, 2024—the answers are not even due yet. *See Harrods Ltd. V. Sixty Internet Domain Names*, 302 F.3d 214, 246-47 (4th Cir. 2002); *Simpson v. McCoy*, No. 3:23-cv-00322-KDB-SCR, 2024 WL 2926626, at *2 (W.D.N.C. Jun. 10, 2024) ("In general, summary judgment should only be granted 'after adequate time for discovery.'") (quoting *McCray v. Maryland Dep't of Transp., Maryland Transit*

Admin., 741 F.3d 480, 483 (4th Cir. 2014)). Indeed, the parties have until October 4, 2024 to complete depositions. (ECF No. 33 at 2). Moreover, the Scheduling Order specifically requires that the parties participate in settlement negotiations before motions for summary judgment are filed. (*Id.* at 3). Those negotiations must occur by **October 14, 2024**, and if unsuccessful, dispositive motions must be filed no later than **October 31, 2024**. (*Id.* at 2-3).

Therefore, Plaintiff's motion is not considered ripe, and a ruling thereon shall be held in abeyance. He will have until **October 31, 2024** in which to supplement the motion. Defendant need not respond to the motion until **November 15, 2024**, the date set out in the Scheduling Order for responses. Plaintiff is advised that he must submit a memorandum in support of his Motion for Summary Judgment. That memorandum must be filed by October 31, 2024. The memorandum shall include any law that Plaintiff believes supports his claim and shall not exceed twenty pages.

The Clerk is instructed to provide a copy of this Order to Plaintiff and counsel of record.

ENTERED: June 26, 2024



Cheryl A. Eifert
United States Magistrate Judge